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October 27, 2004

DOCKET FILE COPY ORIGINAL

Marlene S. Dortch, Secretary
Federal Communications Commission
c/o Natek, Inc.
236 Massachusetts Avenue, NE, Suite 110
Washington, DC 20002

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OCT 27 2004

Federal Communications Commission
Office of Secretary

Re: Comments of EchoStar Satellite, L.L.C.
Docket No. 04-289

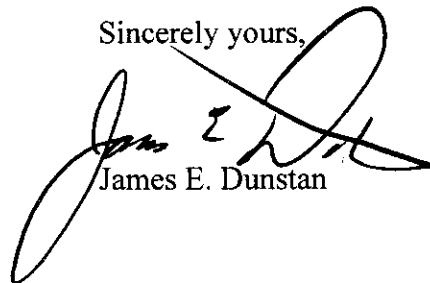
Dear Ms. Dortch:

Transmitted herewith on behalf of EchoStar Satellite, L.L.C. is a copy of its "Comments" in connection with Docket No. MB 04-289.

Additional copies of the pleading are also being delivered, either by hand or by U.S. first-class mail, to each of those listed on the attached Certificate of Service.

If there are any questions concerning this matter, kindly communicate directly with this office.

Sincerely yours,



James E. Dunstan

JED:cll
Enclosure

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Before The
Federal Communications Commission
Washington, DC 20554

In re:)
)
Amendment of Section 76.606(b), Table)
of Allotments, TV Broadcast Stations; and) MB Docket No. 04-289
73.622(b), Table of Allotments, Digital) RM-10802
Broadcast Television Stations)
(Columbia and Edenton, NC))

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OCT 27 2004

Federal Communications Commission
Office of Secretary

To: The Chief, Media Bureau

COMMENTS

EchoStar Satellite, L.L.C. ("EchoStar"), by its attorneys, hereby files these Comments in response to the *Notice of Proposed Rule Making* ("NPRM"), DA 04-2396, released August 6, 2004. In support of these Comments, EchoStar submits:

I. INTRODUCTION

The University of North Carolina ("UNC") is the licensee of noncommercial television station WUND-TV, Channel 2, and WUND-DT, Channel 20, licensed to Columbia, North Carolina (together "WUND"). Columbia, North Carolina, is located in Tyrrell County, which is assigned to the Greenville-New Bern-Washington, North Carolina ("Greenville") DMA (No. 103). In this proceeding, UNC requests that the FCC change the city of license of WUND from Columbia, to Edenton, North Carolina, located in Chowan County, and assigned to the Norfolk-Portsmouth-Newport News, Virginia ("Norfolk") DMA (No. 41). UNC owns a total of eleven (11) full power television stations, all offering identical programming from studios located almost 150 miles from Columbia.¹ UNC has no facilities in Columbia for the creation or airing of local programming designed to serve the needs of that community, and the programming

¹ See UNC Comments, p. 3.

aired on WUND is no different from that aired elsewhere in the state.² Nor does WUND air any program that could be deemed local to the Norfolk market, into which it requests to be moved.

EchoStar is a provider of nationwide DBS service. EchoStar provides “local-into-local” service to both the Greenville and Norfolk DMAs. In the Greenville market EchoStar carries UNC’s WUNM, Jacksonville, NC. In the Norfolk DMA, EchoStar carries PBS affiliate WHRO, Channel 15, Hampton-Norfolk. EchoStar has a clear interest in this proceeding, as the only purpose of UNC’s petition is to attempt to gain carriage for WUND on DBS systems delivering local-into-local service in the Norfolk market. In the *NPRM*, the Bureau stated:

Based on the information before us, we do not believe that the petition has demonstrated that its proposal would result in a preferential arrangement of allotments. While it is true that the reallotment of WUND’s channels to Edenton would provide the community with its [first] local transmission service, it will be at the expense of Columbia, a community that would lose its sole existing transmission service.³

As demonstrated herein, the Bureau’s initial conclusion was right on the mark. UNC’s efforts in this proceeding are nothing more than an attempt to “game the system” through an “artificial or purely technical manipulation of the Commission’s 307(b) related policies”⁴ to modify its DMA for the sole purpose of gaining access to the much larger Norfolk market, something the Commission has never done before. The Bureau should reject UNC’s attempt.

II. ARGUMENT

A. Changing WUND’s City of License, and Thus Its DMA, Would Constitute An Illegal Market Modification

UNC is unapologetic about its motivation for requesting that its city of license be changed. The sole reason for the move is so it can demand carriage for WUND in the Norfolk, Virginia, television market on DBS carriers, in effect substituting its own carriage desires for the

² UNC Comments, pp. 8, 24.

³ *NPRM*, ¶ 6.

⁴ *Modification of FM & TV Authorizations to Specify a New Community of License (“Change of Community Recon.”)*, 5 FCC Rcd. 7094, ¶ 14 (1990).

system crafted by Congress and the FCC.⁵ UNC makes this request even though it fails to air any programming that could be deemed local to the Norfolk market. UNC's Petition, and the *NPRM* for that matter, ignore one critical issue: The proposed change violates the Satellite Home Viewer Improvement Act (SHVIA).⁶

Under the 1992 Cable Act,⁷ Congress established a "market modification" process whereby both television stations and cable systems can seek to modify the must carry "zones" of individual television stations "to better effectuate" the purposes of the cable must carry statute.⁸ In contrast, SHVIA contains no such market modification procedure, and the Commission explicitly rejected a request during the rule making to adopt a market modification rule for DBS.

We find that the Act does not permit the Commission to change the shape of a television market . . . In addition, there is no explicit provision providing the Commission with authority to modify markets in the manner permitted under Section 614(h). Therefore, we cannot establish a market modification policy on our own motion. We note that the Senate version of the SHVIA had, at one point in time, a market modification provision. This subsection was not adopted by Congress. Thus, any attempt by the Commission to implement a market modification regime would run counter to the express intent of Congress.⁹

⁵ UNC Comments, p. 6 ("The overlay of the FCC's channel allotments and Nielsen's commercial market designations produces, for the citizens and viewers in the Nine County Area, an inequitable, illogical, and arbitrary result. The anomaly is an unintended consequence of the overlay of a *private entity's* market designations on the Commission's channel allotment table. The purpose of the Petition is to correct this anomaly.")(emphasis in original).

⁶ *Satellite Home Viewer Improvement Act ("SHVIA")*, Section 338; Pub. Law 106-113, 113 Stat. 1501, 1501A-526 to 1501A-545 (November 29, 1999).

⁷ *Cable Television Consumer Protection and Competition Act of 1992*, Pub. L. No. 102-385, 106 Stat. 1460 (1992).

⁸ Pursuant to Section 614(h), the Commission can add additional communities where a station can demonstrate that it provides true local service to cable systems located in a different market, or conversely, the Commission may relieve a cable system of its obligations to carry a television station licensed to the same market that provides no demonstrable local service. See, e.g. *Young Broadcasting of Lansing, Inc. (WLNS-TV)*, 18 FCC Rcd. 24889 (MB, 2003) (petition granted to add communities to a station's must carry zone); compare *Time Warner Cable (KHIZ)*, 19 FCC Rcd. 18618 (MB 2004) (upheld removal of cable communities; must carry regime not designed to create "regional superstations", citing *WLNY-TV, Inc. et al. v. FCC*, 163 F.3d 137 (2d Cir. 1998)).

⁹ *Implementation of the Satellite Home Viewer Improvement Act of 1999: Broadcast Signal Carriage Issues ("DBS Must Carry Reconsideration Order")*, 16 FCC Rcd. 16544, ¶ 41 (2001). See also *KM Television of Flagstaff, LLC (KCFG)*, 17 FCC Rcd. 1731, 1735 (MB 2002) (granting complaint filed by Flagstaff, Arizona station requesting carriage throughout the Phoenix DMA even though its Grade B

UNC's request here is nothing more than a backdoor attempt at the type of market modification the Commission previously found "would run counter to the express intent of Congress."

Changing WUND's city of license to a city within the Norfolk market would further violate SHVIA by granting carriage rights on DBS that far exceed those enjoyed by WUND on cable systems. According to the *Television and Cable Factbook*, 2004 Edition, there are 352,727 cable subscribers in Virginia within the Norfolk television market, *none* of whom currently receive WUND, even though a number of cable systems lie within WUND's Grade B contour.¹⁰

In implementing SHVIA, the Commission concluded that Congress intended for DBS carriage of television stations to mirror cable carriage as much as practicable.¹¹ The Commission noted the differences between the carriage rules for commercial and noncommercial stations. Noncommercial stations are accorded carriage rights on cable systems within 50 miles or within their Grade B contour, whichever is larger.¹² Under SHVIA, however, noncommercial stations were granted must carry rights throughout their television market, because on the inherently national nature of the DBS delivery system. The Commission was nonetheless concerned about the burden placed on DBS providers of having to deliver multiple noncommercial stations. "Section 338 instructs the Commission to implement NCE station carriage requirements providing the same degree of carriage by satellite carriers as is required by cable systems under Section 615 of the Act."¹³

Were the Commission to adopt UNC's proposal, and move WUND into the Norfolk, Virginia DMA, it would be forcing DBS providers to deliver WUND into counties in Virginia

contour fell some 90 miles short of Phoenix and it aired no programming local to the core of the Phoenix market; "the Commission has specifically rejected implementation of such a market modification as 'counter to the express intent of Congress.'").

¹⁰ See Exhibit 1, Analysis of Cable Carriage of WUND.

¹¹ *Implementation of the Satellite Home Viewer Improvement Act of 1999: Broadcast Signal Carriage & Retransmission Consent Issues* ("DBS Must Carry R&O"), 16 FCC Rcd. 1918, ¶ 3 (2000).

¹² See *DBS Must Carry Reconsideration Order*, ¶ 87.

with an aggregate population of 693,610, none of whom currently receive WUND via cable.¹⁴

Only DBS providers would suffer this carriage burden, on systems that are already heavily bandwidth constrained. Placement of such a burden on DBS operators runs afoul of Congressional intent that DBS carriage rules mirror to the extent possible the cable rules.

B. Under a Standard Section 1.420(i) Analysis, UNC's Proposal Must Be Rejected

Even under a standard Section 1.420(i) analysis, as pointed out by the Bureau in the *NPRM*, UNC fails to demonstrate how the proposed change would advance the policies of the basic Section 307(b) allocation scheme.¹⁵ In modifying its policies to allow licensees to change cities of license without subjecting themselves to competing applications, the Commission stated that change requests would not be granted for purely competitive reasons.¹⁶ Further, there was a strong presumption against a city of license change which involved the removal of the only transmission service from a community. "We will not allow broadcasters to take advantage of this new procedure if the effect would be to deprive a community of an existing service representing its only local transmission service."¹⁷ This policy was later described by the Commission as a "prohibition" against removal of last service from a community.¹⁸

¹³ *DBS Must Carry R&O*, ¶ 86.

¹⁴ See Exhibit 1, hereto.

¹⁵ In allocating television service, the FCC strove to accomplish five priorities: 1) To provide a least one television service to all parts of the United States; 2) To provide each community with at least one television station; 3) To provide a choice of at least two television services to all parts of the United States; 4) To provide each community with at least two television broadcast stations; and 5) Any channels which remain unassigned under the foregoing priorities will be assigned to the various communities depending on the size of the population of each community, the geographical location of such community, and the number of television services available to such community from television stations located in other communities. See *Sixth Report and Order, Television Table of Assignments* ("Television Sixth Report and Order"), 41 FCC 148, 167 (1952).

¹⁶ *Modification of FM & TV Authorizations to Specify a New Community of License* ("Change of Community R&O"), 4 FCC Rcd. 4870, ¶ 27 (1989), recon. granted in part 5 FCC Rcd. 7094. See also *Change of Community Recon.*, ¶ 13.

¹⁷ *Change of Community R&O*, ¶ 28.

¹⁸ *Change of Community Recon.*, ¶ 16 ("the prohibition on the removal of an existing station representing a community's sole local broadcast service furthers our statutory mandate").

To understand the Commission's thinking on this issue, compare the separate statements made by Commissioner Quello. He dissented from the *Change of Community R&O*, stating:

Experience tells me that we will begin to see a gradual movement from communities with limited populations and low incomes to larger more economically advantageous communities. Admittedly, the decision does prevent a station from abandoning its community when it is the only facility in the market. While this makes the decision more palatable, it simply does not go far enough. This decision will set in motion the entire table of allotments from the FM and television services.¹⁹

In response to petitions for reconsideration, and Quello's dissent, the Commission clarified on reconsideration that it is "axiomatic" that licensees would not be allowed to change their cities of license unless such a change *advanced* the priorities under Section 307(b),²⁰ and merely moving from a smaller community to a larger community by itself did not constitute an advancement of those priorities. The Commission concluded that it would not allow licensees to benefit themselves through an "artificial or purely technical manipulation of the Commission's 307(b) related policies."²¹ In response to this clarification, Commissioner Quello stated:

I dissented from the Commission's 1989 Report and Order in this proceeding because I was convinced that the new rule would encourage some licensees to abandon their assigned communities in favor of larger urban markets. The ensuing round of applications lent some credence to this concern. As a result, I am glad that, by this action, the Commission is taking steps to ensure that changes in a community of license will truly serve our allotment priorities and will not deprive communities of local service.²²

It is against this backdrop that UNC's attempt to move WUND from the Greenville, North Carolina, DMA (No. 103) to the Norfolk, Virginia, DMA (No. 41), must be viewed. Under a traditional analysis under Section 307(b), as applied through Section 1.420(i), the Bureau must deny this attempt on three bases, as discussed below.

¹⁹ *Change of Community R&O*, 4 FCC Rcd. at 4877 (dissenting statement of Quello, Commissioner).

²⁰ *Change of Community Recon.*, ¶ 11.

²¹ *Id.*, ¶ 14.

²² *Change of Community Recon.*, 5 FCC Rcd. at 7099 (separate statement of Quello, Commissioner).

1. Priority 2 is Violated: The Proposed Change Would Remove The Only Television Station Licensed to Columbia

No matter how UNC attempts to “spin” the situation,²³ the proposed city of license change would result in the loss of the only local television transmission service for Columbia. This is the classic case falling within the prohibition set forth by the FCC, and applied in a number of cases, as recently as July, 2004.²⁴

In response, UNC argues that Priority 2 is not implicated so long as the community still receives an over-the-air signal.²⁵ However, as Hampton Roads demonstrated in its comments, the FCC makes a clear distinction between “reception service” and “transmission service.”²⁶ Merely continuing to provide reception service does not justify removing the last transmission service to a community.

2. Priority 5 is Violated: The Proposed Would Move An Allocation From an Underserved Community to a Well Served Community

Even if the Commission does not apply the flat prohibition against removal of the only local transmission service to Columbia and treats this as a Priority 5 case, the change still would not advance the goals of Section 307(b). The *NPRM* specifically requested that UNC provide evidence of service to the two communities. The results are startling. Columbia is served by only three (3) television stations over-the-air (WUND; WSKY, Manteo, NC; and WTKR, Norfolk, VA).²⁷ Edenton, on the other hand, is served by nine (9) analog television stations

²³ UNC Comments, p. 8. Contrary to UNC’s claims that this situation should not be addressed under Priority 2, it is clear that any time the only local service is removed from a community, Priority 2 is implicated and must be addressed. See *Amendment of Section 76.606(b)(Campbellsville and Bardstown, Kentucky)*, 19 FCC Rcd. 12745 (MB, 2004), ¶ 7 (rejecting argument that remaining Class A television station in community should obviate Priority 2 analysis).

²⁴ *Campbellsville and Bardstown, Kentucky*, 19 FCC Rcd. 12745. The Commission there denied an attempt to remove the only local service to Campbellsville, Kentucky, and move the allocation to Bardstown, approximately 30 miles away.

²⁵ UNC Comments, p. 8.

²⁶ See Hampton Roads Educational Telecommunications Association, Inc. Comments, p. 4, citing *Bessemer and Tuscaloosa*, 5 FCC Rcd. 669 (1990).

²⁷ See UNC Comments, Exhibit 3, Figure 1 (du Treil Engineering Statement). It appears that WTKR *just*

over-the-air. Under Commission precedent, a community is deemed to be “well served” if it receives five or more services, and less than well served if it receives less than five services over-the-air.²⁸ UNC’s proposal, therefore, would move the allocation from a community that is underserved with television broadcast stations to one that is well served – a Priority 5 violation.

3. In No Event Are the Goals of Section 307(b) Advanced

In essence, the best that UNC can argue is that Priority 5 is advanced in this instance because Edenton is a slightly larger community than is Columbia, and therefore allocation of a channel there represents an advancement of Priority 5.²⁹ UNC has failed to point to any Commission precedence where a difference of only 4,432 people (the difference between the 2000 Census figures for Columbia and Edenton) has ever been recognized as decisional in a Priority 5 analysis, especially where ultimately there is no gain of reception service.³⁰ At best then, the proposed city of license change is a “wash” under Priority 5. The Commission has stated that “it is axiomatic” that no change will be made to the table of allotments unless such change *advances* the priorities of Section 307(b).³¹ Allowing a licensee to change city of licenses solely to move from a smaller community to a larger community is just the type of movement the Commission declared would not be allowed in the *Community of License Recon.*

places a Grade B contour of Columbia, but does not cover the rest of Tyrrell County.

²⁸ See *Garberville and Hydesville, CA*, 9 FCC Rcd. 3125 (1994); see also *Asheville, North Carolina and Greenville, South Carolina*, 18 FCC Rcd. 15577 (MB, 2003), citing *Garberville*, *supra*.

²⁹ UNC Comments, p. 30. As discussed in Section II.A, *supra*, the alleged public interest benefit of delivery of WUND by DBS providers is actually contrary to the public interest, because it violates SHVIA.

³⁰ In *Amendment of Section 76.606(b)(Ardmore, Oklahoma and Sherman, Texas)*, 7 FCC Rcd. 4846 (1992), for example, the population difference there was nearly three times what it is here, over 11,000 more population in Sherman, Texas than in Ardmore, Oklahoma. See *infra* Section C for a further discussion of this case. See also *Amendment of Section 76.606(b)(Pueblo, Colorado)*, FCC 99-162 (Rel. July 7, 1999), ¶ 26 (“[w]hile it is alleged that 5,324 persons will now receive KTSC(TV)’s service as a result of that station’s use of KOAA-TV’s site at Baculite Mesa, this gain is relatively small and substantially less than the gain in service that KTSC(TV)’s use of its Cheyenne Mountain site would have provided. Such a slim public interest benefit to be derived from creation of a short-spaced allotment certainly does not meet the “compelling need” standard to justify such an allotment.”)

³¹ *Change of Community Recon.*, ¶ 11.

C. UNC Misinterprets the *Ardmore, Oklahoma, Sherman, Texas* Case

UNC relies heavily on the Commission's decision in *Ardmore, Oklahoma and Sherman, Texas*³² to support its claim that the Commission, through the city of license change proceeding, can reassign a station from one DMA to another.³³ UNC's reliance is misplaced, however. The Commission manifestly *did not* reassign KXII from one market to another. KXII remained in the same market both before and after the city of license change. The only change was that after the change, Grayson County, home of Sherman, was reassigned from the Dallas market to the Ada market (by Arbitron) to create the Sherman-Ada ADI (now DMA).³⁴

If the pending proceeding were to work the same way, the sole result of the change of city of license would be to have Chowan County (home to Edenton) reassigned from the Norfolk market to the Greenville market. What UNC wants, however, is the opposite -- to move its entire station from the Greenville market to the Norfolk market for purposes of DBS carriage.³⁵ There is no precedent to support such a disruptive change; *Ardmore, Oklahoma and Sherman, Texas* does not stand for the proposition that the Commission can change the assignment of stations to television markets through the city of license change process.³⁶

³² See *supra*, n. 32.

³³ See UNC Comments, pp. 24-27.

³⁴ This change resulted in the ADI growing from 178th to the 157th largest, 21 places. Moreover, the impact on MVPDs was minimal, because they were already carrying KXII at the time. Indeed, no cable system even opposed the move.

³⁵ Because of the differing carriage requirements between cable and DBS, UNC would not lose existing cable carriage in the Greenville market because cable systems are required to carry noncommercial stations within their Grade B contours or within 50 miles of the cable headend.

³⁶ *Ardmore, Oklahoma and Sherman, Texas* likewise is unhelpful under a standard Section 307(b) analysis. There, the Commission placed significant reliance on the fact that Sherman, Texas, received no Grade A service from any other station besides KXII, and thus was underserved. *Id.*, ¶ 11. As demonstrated herein, UNC's own comments show that it is Columbia that is underserved by over-the-air reception (with at most 3 signals), whereas Edenton receives over-the-air service from nine (9) stations. Finally, the Commission placed reliance on the fact that KXII was already operating from a main studio within Sherman. Here, WUND has absolutely no presence or affiliation with Edenton, other than the hackneyed "global village"-like arguments raised by UNC that Edenton and Columbia should be treated as the same "community" for allocation purposes.

III. CONCLUSION

In the end, UNC's gambit fails to meet the letter or spirit of either Section 307(b) or SHVIA. Not one pound of WUND's facilities actually resides in the Norfolk market. Not one program is broadcast over-the-air into the Norfolk market that originates at WUND. WUND is merely a high powered translator of UNC's statewide delivery network. UNC manifestly is *not* entitled to MVPD carriage throughout the entire state of North Carolina. The 1992 Cable Act and SHVIA are carefully balanced to ensure that stations that are carried are truly local. WUND is not local to the Norfolk DMA. Changing its city of license merely to accord it carriage rights in an entirely different market, in an entirely different state, from where it operates runs roughshod over both the television table of allotments and the carefully balanced First Amendment intrusion on MVPDs.

WHEREFORE, the above-premises considered, EchoStar respectfully requests that the Commission reject UNC's request to change the city of license of WUND.

Respectfully submitted

EchoStar Satellite, L.L.C.

By: 

James E. Dunstan

Its Attorneys

Garvey Schubert Barer

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Eric Sahl
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October 27, 2004

Exhibit 1

Analysis of Cable Carriage of WUND

ANALYSIS OF CABLE SYSTEM CARRIAGE OF WUND

| County | Population ¹ | Major Cities | Cable MSO | Cable Subs | Carry WUND |
|-------------------------------|-------------------------|---|----------------|---------------|------------|
| North Carolina | | | | | |
| Gates, NC | 10,516 | Gatesville | Charter | 296 | YES |
| Camden, NC | 6,885 | Camden | Mediacom | 909 | YES |
| Currituck, NC | 18,190 | Currituck, Aydlett, Church's Island, Coinjock, Grandy, Harbinger, Jarvisburg, Mamie, Olds, Point Harbor, Poplar Branch, Powells Point, Walnut Island, Water View Shores, Waterlilly | Mediacom | 3,225 | YES |
| Hertford, NC | 22,601 | Hertford County, Winton, Ahoskie | Adelphia Cable | 3,378 | YES |
| Pasquotank, NC | 34,897 | Pasquotank County. Elizabeth City | Adelphia Cable | 10,162 | YES |
| Chowan & Perquimans, NC | 25,894 | Edenton, Perquimans, Hertford, Winfall | Mediacom | 4,165 | YES |
| Dare, NC | 29,967 | | ???? | | ???? |
| | | | | | |
| Total (North Carolina) | 148,950 | | | 22,135 | |
| | | | | | |

http://factfinder.census.gov/servlet/DTGeoSearchByListServlet?ds_name=DEC_2000_SF1_U&lang=en&ts=116152682140.

| County | Population | Major Cities | Cable MSO | Cable Subs | Carry WUND ? |
|-------------------------|----------------|---|-----------------------------|----------------|--------------|
| Virgina | | | | | |
| Accomack, VA | 38,305 | Accomack, Northampton, Bloxom, Cheriton, Eastville, Hallwood, Keller, Malfa, Northampton County (southern portion), Onancock, Onley, Parksley, Saxiz, Wachapreague | Charter | 5,203 | NO |
| Gloucester, VA | 34,780 | Gloucester | Cox | 8,681 | NO |
| Mathews, VA | 9,207 | Mathews | Adelphia Cable | 1,961 | NO |
| York, VA | 56,297 | York county, Grafton | Cox | 14,626 | NO |
| Surry, VA | 6,829 | | | | |
| Suffolk, VA | 63,677 | Suffolk City | Charter | 7,084 | NO |
| Virginia Beach City, VA | 425,257 | Chesapeake City, Hampton City, Newport News City, Norfolk City, Portsmouth City, Virginia Beach City, York, Fort Eustis Army Base, Fort Monroe, Fort Story, Norfolk Naval Base, Southside Hampton Roads, U.S. Coast Guard 5 th District, Yorktown Naval Weapons Station. | Cox | 311,000 | NO |
| Franklin City, VA | 47,260 | Isle of Wight, Southampton, Sussex, Boykins, Branchville, Carrolton, Courtland, Ivor, Newsoms, Rushmere, Smithfield, Wakefield, Waverly, Windsor | Charter | 8,200 | NO |
| Williamsburg, VA | 11,998 | James, James City and York | Scott Telecom & Electronics | 3,049 | NO |
| Total (Virgina) | 693,610 | | | 352,727 | |

CERTIFICATE OF SERVICE

I, Cindy Lloyd, hereby certify that on this 27th day of October, 2004, copies of the foregoing "Comments" have been served by U.S. first-class mail, postage prepaid, or by hand delivery*, upon the following:

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& Leonard, LLP
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Cindy Lloyd